REMARKS

This application has been reviewed in light of the Office Action dated November 28, 2008. Claims 1–9 are pending in the application. Claims 1–9 have been amended for the purpose of clarification. No new matter has been added.

It is first important to note that claims 1–9 all recite language referring to a predetermined period. The plain meaning of these terms indicate a period *of time*. Although Applicant believes that this meaning is already clear, applicants have amended the claims to make it explicit. Support for the amendments exists in the present specification at paragraph 17.

Claim 1–5 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claim 1 recites, *inter alia*:

> means for maintaining the lamp in an off-condition during a predetermined cool-down period following receipt of the power-off command, means for receiving a power-on command during the predetermined cool-down period, and means for automatically powering on the lamp at the end of the predetermined cool-down period if the power-on command is received during the predetermined cool-down period.

The Examiner asserts that the means-plus-function elements of claim 1, and hence also of claims 2–5, lack the support required by section 112, paragraphs 1 and 6. The examiner states, "The instant specification does not provide adequate description, i.e. in specific terms, of the corresponding structure, material or acts for *each* of these means-plus-function claim limitations, but rather a single structure in broad generic terms, i.e. a control circuit."

From the comment made in the Official action, the Examiner acknowledges that applicants' specification discloses a control circuit which performs the recited functions in claim 1. MPEP § 2163.02 states, "An objective standard for determining compliance with the written description requirement is, 'does the description clearly allow persons of

ordinary skill in the art to recognize that he or she invented what is claimed,'" (citing In re Gosteli, 872 F.2d 1008, 1012).

The standard for meeting the written description requirement is thus whether the inventor can be shown to have been in possession of the invention at the time of filing. MPEP § 2181(II) states, "35 U.S.C. § 112, sixth paragraph, does not impose any requirements in addition to those imposed by 35 U.S.C. § 112, first paragraph." One skilled in the art would be enabled to create a control circuit that performed the claimed functions based on a reading of the specification, and it is therefore respectfully asserted that the specification includes an adequate written description and support for the recited functions of claims 1–5. Reconsideration of the rejection is earnestly solicited.

Claims 1–5 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As discussed above, the examiner has acknowledged that applicants' specification discloses a control circuit which performs the functions recited in claim 1. MPEP § 2181(III)(B)(1) unequivocally states, "If one skilled in the art would be able to identify the structure, material or acts from the description in the specification for performing the recited function, then the requirements of 35 U.S.C. § 112, second paragraph, are satisfied." No further specificity is required. Applicants respectfully assert that their specification provides adequate support for claims 1–5 under section 112, second paragraph. Accordingly, applicants request reconsideration of the rejection.

Claim 9 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 9 as previously presented recited, *inter alia*, "A program-containing computer readable medium. . . ." The Examiner has interpreted these terms to include unpatentable algorithms and/or data structures. The Examiner goes on to cite MPEP § 2106.01(I), giving particular emphasis to the statement that computer programs are not physical things. However, it should be noted that the portion of MPEP § 2106.01(I) which the Examiner quotes immediately goes on to say, "In contrast, **a claimed computer readable medium encoded with a computer program** is a computer element which defines structural and functional interrelationships between the computer program and the

rest of the computer which permit the computer program's functionality to be realized, and **is thus statutory**," (emphasis added).

Although Applicants therefore firmly believe that claim 9 as previously presented was directed to statutory subject matter, applicants have now amended claim 9 to mirror the language used in MPEP § 2106.01(I). Claim 9 now recites, "A computer readable medium encoded with a program." MPEP §2106.01(I) clearly states that the form of claim 9 is directed to statutory subject matter. Applicants respectfully assert that claim 9 satisfies the requirements of 35 U.S.C. § 101 and request reconsideration of this rejection.

Claims 1–9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,136,397 to Miyashita (hereinafter "Miyashita").

Claim 1 as amended recites, *inter alia*, "means for **automatically powering on the lamp** at the end of the predetermined cool-down period of time if the power-on command is received during the predetermined cool-down period of time." Claims 6 and 9 recite analogous language. The Examiner asserts that Miyashita anticipates this element in col. 8, a discussion which pertains to turning on a lamp.

Applicants assert that the portion of Miyashita to which the Examiner refers has nothing to do with cool-down. Instead, Miyashita describes a start-up process and makes no mention of the lamp having previously been turned off, or the need for a cool-down period prior to the start-up. FIG. 11A of Miyashita clearly shows that, after receiving a power-on command, lamp turn on begins almost immediately (step 138). The time delay (step 139) occurs *afterward*.

Miyashita depicts a cool-down process in FIG. 12. After receiving the power-off command, Miyashita enters a loop 166 to determine whether the device has cooled. Column 9, lines 3–5 of Miyashita describe that the loop has no bounded by any predetermined period, but instead by whether the lamp has cooled to a predetermined *temperature*. Furthermore, Miyashita does not discuss turning the lamp back on after cooling down.

Applicants respectfully assert that Miyashita does not disclose or suggest automatically powering on the lamp at the end of the predetermined cool-down period of time. As a result, claims 1, 6, and 9 patentably distinguish over the art of record. Since

claims 2–5 and 7–8 depend from claims 1 and 6 respectively, these claims incorporate by reference all of the feature of their respective base claims. Therefore claims 2–5 and 7–8 patentably distinguish over the art of record for the same reasons as claims 1, 6 and 9.

In addition, several of the dependent claims include patentable subject matter separate and distinct from that is incorporated by reference from the parent claims. For instance, claim 2 recites, "means for signaling receipt of a power-on command during the cool-down period of time." Miyashita does not disclose or suggest any awareness of having received a power-on command during cool-down, and certainly does not disclose or suggest signaling the receipt of such a command.

Conclusion

In view of the foregoing, applicants solicit entry of this amendment and allowance of the claims. If the Examiner cannot take such action, the Examiner should contact the applicant's attorney at (609) 734-6820 to arrange a mutually convenient date and time for a telephonic interview.

No fees are believed due with regard to this Amendment. Please charge and fee or credit any overpayment to Deposit Account No. **07-0832.**

Respectfully submitted,

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